

of trust, security deed, or another term used in a particular jurisdiction; or

(ii) A loan secured by collateral as required by 24 CFR 1005.107; and

(2) The credit instrument, or note, secured thereby.

*Mortgagee* means the same as "Holder."

*Principal residence* means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

*Property* means the property constructed, acquired, or rehabilitated with the guaranteed loan, except when the context indicates that the term means other collateral for the loan.

*Section 184* means section 184 (entitled, "Loan Guarantees for Indian Housing") of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z-13a).

*Trust or restricted land* has the meaning given to "trust land" in section 184(k)(9) of the Housing and Community Development Act of 1992.

[61 FR 9054, Mar. 6, 1996. Redesignated and amended at 63 FR 12349, 12372, Mar. 12, 1998; 63 FR 48990, Sept. 11, 1998]

#### § 1005.104 What lenders are eligible for participation?

Eligible lenders are those approved under and meeting the qualifications established in this subpart, except that loans otherwise insured or guaranteed by an agency of the United States, or made by an organization of Indians from amounts borrowed from the United States, shall not be eligible for guarantee under this part. The following lenders are deemed to be eligible under this part:

(a) Any mortgagee approved by HUD for participation in the single family mortgage insurance program under title II of the National Housing Act;

(b) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title;

(c) Any lender approved by the Department of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949;

(d) Any other lender that is supervised, approved, regulated, or insured by any other agency of the United States; or

(e) Any other lender approved by the Secretary under this part.

[63 FR 12372, Mar. 12, 1998, as amended at 63 FR 48990, Sept. 11, 1998]

#### § 1005.105 What are eligible loans?

(a) *In general.* Only fixed rate, fixed term loans with even monthly payments are eligible under the Section 184 program.

(b) *Eligible borrowers.* A loan guarantee under section 184 may be made to:

(1) An Indian family who will occupy the home as a principal residence and who is otherwise qualified under section 184;

(2) An Indian Housing Authority or Tribally Designated Housing Entity; or

(3) An Indian tribe.

(c) *Appraisal of labor value.* The value of any improvements to the property made through the skilled or unskilled labor of the borrower, which may be used to make a payment on account of the balance of the purchase price, must be appraised in accordance with generally acceptable practices and procedures.

(d) *Construction advances.* The Department may guarantee loans from which advances will be made during construction. The Department will provide guarantees for advances made by the mortgagee during construction if all of the following conditions are satisfied:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by HUD, setting forth the terms and conditions under which advances will be made;

(2) The advances may be made only as provided in the building loan agreement;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or the mortgagor's creditors as provided in the loan agreement; and

(4) The mortgage shall bear interest on the amount advanced to the mortgagor or the mortgagor's creditors and